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CONCESSIONS AND COMPROMISES.

By
Joshua Francis Fisher

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CONCESSIONS AND COMPROMISES.

It may be too late—madness seems to rule the hour—and, before the following pages can be presented to my fellow countrymen, some fatal and irrevocable act may be done, or word spoken, which may plunge us into revolution, and all its fearful consequences. But if reason may yet be heard—if there are still, as I really believe, many even in the cotton States who would willingly try our Government a little longer for the good it has done to all, for the honor it has gained, for the example it has set, for the memory of our ancestors who formed it so wisely and so hopefully, after a long struggle in which they shed their blood together—then I would offer, with deference to the counsels of such statesmen as still prefer *National* to *State patriotism*, the following suggestions, which I do without further preamble.

Let all State laws, obstructing the action of the fugitive slave law, be at once repealed, and suitable penalties inflicted on all who interfere with it, with or without form of State law.

In case of rescue, let the county where it occurred be bound to pay the loss. This is an adaptation and a just one of the old principle of our Saxon common law in case of loss by riot.

In return for these concessions, let the Fugitive Slave Law be modified in the following particulars:

Let it be enacted, that no man shall be deprived of his

liberty but by the *verdict of a jury*, if claimed by him; but let that trial be held in *the State and County from which the fugitive is said to have escaped*, and let the claimant be bound before the Northern Commissioner in heavy bonds, say for $2000, given by himself and two substantial citizens of the Northern State, that he shall be returned free of expense in case the Southern jury cannot find an *unanimous* verdict, and also to pay such counsel as the negro may have engaged.

It being understood, that this privilege of trial by jury shall only be accorded in case of formal demand by the fugitive or his friends, after the hearing and adjudging of his case by the United States Commissioner.

No one can deny that this is the form of the law which would best secure the rights both of the master and the negro claimed as a fugitive.

The latter would first have the chance of release by the United States Commissioner, who must be satisfied of the evidence for his slavery before giving him up; then *if he demanded it*, before the jury; and it is quite certain, there never would be a jury unanimously condemning a free man to slavery in the very neighborhood where he is said to have lived, and where no one would dare to perjure himself to establish the claim. It is also notorious that in cases of kidnapping, Southern juries have always been favorable to the negro. Besides, they do not want among them men who have been born and bred freemen in the Northern States.

When the right of jury trial is claimed,—which, I may remind my Southern friends, *a real slave would never do*—I would have the Commissioner hand over the black man, not to the claimant, but to the public authorities of the Southern States, who would deliver him to his master, only after the further establishment of his claim by a Southern jury; before which, the negro could be defended by counsel, secured and sent by his Northern friends, who, by my

plan, would not be called on to pay these expenses, except when the claim for freedom was unfounded.

In this way—while the black man would have a double chance—the Commissioner would be relieved from the awful responsibility of consigning a fellow-creature to hopeless slavery, and knowing he would have a fair trial by jury, would only require the amount of evidence necessary to decide ordinary cases of law.

The present clause in the law, giving him a double fee in case of finding for the master, should be repealed, as odious in all respects.

The above changes in the law would, I think, secure perfectly the rights of both parties, and, if I am not mistaken, would be entirely satisfactory to the Southern States. The opposition would come from another quarter.

One other change is required, if not by justice, at least by humanity,—I think by both.

There should be a CLAUSE OF LIMITATION. Unless the slave were claimed within five years of his escape, and every reasonable effort made by his master to secure him, his (the master's) rights should be forfeited; it being understood that this exemption from arrest as a fugitive shall only inure to the benefit of those who have spent the whole period in the United States, and within reach of legal process under the act. Those who go to Canada, to be safe, must stay there.

It can hardly be borne in the Northern States that a man who has lived and worked among us, has established character, and formed connections of friendship, perhaps of marriage, should be dragged away, not to his old home and relatives, but to be sold (as is generally the case) alone to a sugar planter in Louisiana. The master should be bound to use more than ordinary diligence in the pursuit of his negro, or the latter should be protected from him.

This also would remove all difficulty about identifying the slave—for, when brought before a Southern court and

jury, after so short an absence, he could hardly be sworn to as a slave if really a native of a Northern State.

It would be an act of comity and kindness to our sister States, depending on slavery for domestic service, to permit transient visitors to bring their servants with them for a limited time, as was allowed in Pennsylvania up to the year 1847 without inconvenience or scandal. Much social and pecuniary advantage would result; and many a Southern family would tarry with us,—now kept away by what they consider a harsh and uncourteous interference with their family concerns. It is hard that an invalid, travelling for health, or a mother accompanied by her children, should have their faithful attendants and nurses lured away by the deceitful promises of persons whose only action is to hurry away the ignorant domestics from their best and most attached friends to an ungenial climate, where they too often leave them to shift for themselves and die in misery. Philanthropy does not, it seems in these cases, extend further than to separate these helpless creatures from their homes and masters, in whose families they were born and would always be cared for. Freedom forsooth, is better than food and clothing, and kind nursing in sickness and age.

This, however, must be left to the legislators of our several States, to whose more enlightened humanity I would earnestly appeal.

The next matter of offence to Southern feeling, is the claim of citizenship for the black race, because certain of the Northern States have thought proper to admit it to electorial privileges. If this point were yielded, it would follow as a consequence, under the fourth Article of the Constitution, that a Negro being citizen of one State, is entitled to all the privileges of a citizen in another State.

The Supreme Court of the United States has decided, that the black man is not capable of citizenship. The Supreme Court of Pennsylvania made the same decision previous to the adoption of our present Constitution, which

expressly excludes the black man from the polls. I believe the same is held in several other (so-called) Free States. At all events, he is in most of these deprived of the privilege of voting; in others, subjected to a property qualification, not imposed upon white men; and in only a few he is made equal with the superior race in his electoral position. Now, there can be no objection to any State admitting him to all the privileges it can confer within her borders. He may vote for and fill all her offices; but, if we are to continue united with the Southern States, *he should have no right to participate in their government*—have no power to take part in an election for Congress, still less for the Presidential office.

In case of a nearly equal division of parties, he may, and perhaps has in some instances decided the election of a member of Congress. In the late Presidential election it was asserted, though falsely, that his vote had carried the electoral ticket in Ohio; and this might indeed have been true if the difference of the votes in number had been hundreds instead of thousands. It will require no argument to show that the *possibility* of such a contingency should be prevented by a constitutional provision. It should not be possible for an American President to owe his election to Negro votes.

I believe this will be agreed to by nine out of ten of my fellow-countrymen. We are here with an inferior race, not fit to share in the management of our institutions—whom we will protect in their place—but that place is not one of equality with us either socially or politically. I am glad to find these are the sentiments of our President elect, pronounced with the bold and honest frankness which characterizes all his declarations. It would be, I am sure, the will of a large majority even of the Northern States if put to the vote, and an amendment to the Constitution to that effect would certainly be carried in the Free States. This matter should be settled at once, and forever.

The next point to which I would advert is the power of a Northern President, if infected with fanaticism, to encourage Abolitionism at the South, by giving his appointments to men who would further, or, at least, not impede the incendiary attempts of the Abolitionists.

Now, the only offices which he can give are those of the Courts, the Customs, and the Post-Office. The two former departments could hardly be obnoxious to this suspicion: their position and small numbers would prevent the idea of danger; but the postmasters, placed in every village, might be truly mischievous by their own efforts, or, at all events, by aiding the circulation of incendiary documents.

The remedy is easy. Take the appointing power from the Postmaster-General, and make each local officer eligible by the people of the county or town. Let them be removable by the Postmaster-General for misconduct on a report to the United States Senate, to which body should be reserved the right of overruling his action; but in all cases the place should be filled by popular election. And it appears to me that this change in the manner of appointment to the local post-offices is altogether desirable in itself, as diminishing the patronage of the President and all its corrupting influences. Surely there are no offices in the whole country the qualifications for which a people are such fit judges of. Many who vote for a legislator or a judge are hardly competent to weigh their capacity for the offices they place them in; but a postmaster has neither legislative nor judicial functions. The simplest education, honesty, and good conduct, are all his requirements. All can observe him in his vocation. If active, accurate, and polite, his political opinions are of no importance to his neighbors, who often, too often, have to regret the appointment of a violent faction leader, neither sober, nor honest, nor respectable in any relation,—only a faithful servant of his party. The country would gain from the change, whatever its motive.

It might also, in some manner, be devised that the mar-

shals and clerks of the United States Courts, should look for their appointments somewhere else than to the President. And the more his patronage is restricted, the higher will be the motives with which the Presidential nominations and elections will be effected. But I am wandering from my subject.

The next point is the protective tariff.

The justice of Southern complaints, on this subject, I shall not discuss. I shall simply take it for granted, that our Government will continue, as it has done, to raise the greater part of its revenues from this source; and, secondly, that the existence of extensive manufactures, in any country, is necessary to its greatness, wealth, progress, and independence; and that the market, at home, for the products of agriculture, should be a sure reliance for the latter interest. Thirdly, that for this purpose, some protection and encouragement, may wisely and justly (incidentally to revenue), be given to most kinds of manufacturing industry, but it may and should be *limited*, and here is the concession I have to suggest—THE LIMIT. This might, perhaps, be fixed at 20 per cent. on the true value, in this country, specified according to a system of just appraisement. This would be the extent, in any case; in many, much more than any manufacturing interest ought to demand. If this, and the cost of importation do not sustain it, it is a proof that industry has been misapplied in it. It may be taken as an axiom, that no manufacture should be fostered to such an extent, as to force the use of an inferior article, or make the cost of the good one an appreciable tax on its daily use.

I have almost nothing to say on the Territorial question, about which everything possible has been written on both sides.

Pride and passion are both enlisted in the question, and by far the wisest course, at present, would be to let it rest for a calmer moment, especially as there is no one territory at present, a subject of dispute. But, for myself, I

would be willing to concede almost anything for union and peace: for when a higher principle is concerned—when the dearest interests of our country are at stake—when our public and private weal are in immediate danger—we should be willing to abandon our own construction of our legal rights, especially if, as in the present instance, we lose nothing.

I take it for granted that there would be no difficulty in giving every guarantee about the slave trade between the States, and the non-emancipation in the District of Columbia, till Maryland had emancipated her slaves, and a majority of the taxable inhabitants of the District had expressed a willingness for it. Such are, I understand, the opinions of our President elect, and if I can judge of his character and sentiments from his public speeches, I believe he would be inclined to sanction most if not all the suggestions I have made.

I cannot find that Mr. Lincoln on the questions which divide the country goes in any respect beyond Mr. Clay's opinions, and although he did not receive my vote, I am inclined to believe he will, if permitted to govern our whole country, gain for himself at the South the same respect and confidence accorded to Millard Fillmore.

But, it may be said—let him be ever so conservative, patriotic, honest, bold in execution of the laws, and in defence of the rights of the South as guaranteed by the Constitution—who is to save us from a successor elected by a still stronger sectional party? In four or eight years hence, the great Middle and Western States will carry everything with them. How is this to be prevented? I answer *by dividing them.* There must always be two parties at the North of nearly equal numbers; the smaller, probably the most conservative, glad to ally itself to the States of the South, which, from unison of interests and feelings will never be divided in the same way. But, it will be asked, what will be the weight of this minority in the Presidential election? What was the influence of the

Democratic and Union Parties in the last election? Majorities or pluralities of the enemies of the South may carry these great States with their entire electoral ticket. I reply, there is a way to prevent this. Difficult to carry, perhaps, against the opposition of the oligarchy of demagogues who govern us, but very possible and easy, if patriotism and not party success, were the ruling motive of our legislators.

Change the mode of choosing Presidential electors. Destroy the general ticket. Choose each elector in his own Congressional district; and let the two Senatorial electors be chosen either by the Legislature or by a majority of the Electoral College, as previously elected in districts. In this way a double good would be attained, the State electoral votes divided, and minorities represented. The South would always have some Northern votes for its candidate in every great Northern State. Perhaps, the North might also have a few for their favorite in the Southern States. The sectional division would be surely broken, our Presidential canvass deprived of many of its evils, both in its excitement and its corruption. The influence and weight of the great States would be weakened. So much the better. The President has nothing to do with the States. He is not their representative, and should owe nothing to local caucuses,—have no bargains to make with State politicians. He should be the representative and creation of all the people of the whole country; and I truly believe the change I propose would tend to make him so.

The above has been written in great haste and without consultation. Reflection and the advice of friends might make it better, in several particulars. But never before was delay so dangerous. There is no such thing as *masterly inactivity* now. All that is dear to us is in peril. We must speak and act at once, or we are lost.

The writer of the above, no wise versed in public affairs, with no acquaintance among public men, unused

to address by word or pen his countrymen, feels impelled to lay before them the result of his anxious meditation on the best remedies for the present dangers. He begs a candid consideration of his propositions. If not acceptable, they may, perhaps, suggest others more available. If not practical or practicable, others with a better chance of success.

The means and manner of carrying them out, would require time and much consideration to mature, but if favored with the approbation of my countrymen, there could be no difficulty. Some of the changes suggested, might require a constitutional amendment; others only an act of Congress or of our legislatures. If there be a will, the way will not be long to seek for.

It is unnecessary to add another word, but I cannot conclude without the utterance of a fervent prayer,—that this offering of earnest patriotism may be received in the same spirit in the different quarters of our Union; and that God may bless my humble effort, and give it some efficacy in helping to arrest the downward course by which our country seems rushing to DISUNION—WAR—ANARCHY.

P. S.—Since the above was in type, another topic has suggested itself, viz., the Supreme Court.

Apprehensions have been expressed that, in consequence of the great growth of population in the Northern States, if hereafter the members of the Court should be appointed in equitable proportion, the preponderance of Northern men on the Bench would be so great as to render impossible a fair and unbiassed decision affecting the interests of

the South and her peculiar institution. This fear would not be just if the judges appointed were honorable men and sound lawyers; but as the nominations might be made from among party men, fresh from contests and discussions, which, even with honest men, too often impair the judgment, I would suggest, as future provisions,

First. That the judges should always be taken from the circuits they will occupy; so that the South would always have their own men in the inferior courts, as well as their proportion in the superior; and

Secondly. In all cases where the question of slavery is implicated even remotely, that the Supreme Court should be formed of an equal number of judges from either side of the slavery line,—the reduction being effected by the retirement, for that case only, from the bench of one or more of the last appointed judges for the Northern circuits.

Whatever may be thought of this proposition, I believe it to be recommended by every consideration of equity.

I cannot think it possible that the senior judges in such cases could decide on any other principles than those of the Constitution and the laws, and their decision to be final must have the concurrence of members of the court from both sections; but should there be an equal division, on a question which did not admit of postponement, then there might be added to the court another judge for the new trial of this case, selected by the Senate of the United States by a vote of more than two-thirds, from among the most eminent jurists of the country not holding Federal offices.

Other guarantees might be suggested by those who have given to our Constitution and its workings more study than I have done; but it is clear that some such modifications as I propose might be made in every particular complained of, without change of principle or any disturbing influence in our present system of government.

We are ready to concede much, almost everything for Union and Peace. We are not warlike, and prefer our farms and workshops to the pomp and circumstance of war. We have no Cavaliers among our ancestors: those gallant gentlemen who always wore swords, and were apt to use them too readily; but some of us, even in the Middle States, are descended from the soldiers of Marston Moor and Worcester. We do not yield from cowardice.

Of all things we deprecate Civil War.

Oh! if my weak voice could be heard amid the shouts of public meetings, the din of arms, and the horrid sound of that accursed music, which led the Ruffians of France to the murder of priests and women, and which I hoped would never be greeted with applause by my countrymen. I would beseech them to stop; and, if only for a moment, reflect what they are doing—where they are going—what they have to gain—what they are throwing away!

At present, they boast of such a union of the whole South as never existed in the entire Confederacy. How long will that union last? Is there such identity of interest between the seaboard planters and those of the Mississippi Valley? Would South Carolina be always the admitted leader. She, except Florida, the smallest and weakest of all the Southern States? Would her views of government be adopted? On the contrary; may we not expect a divergence of opinions in the Convention of Southern States, far greater than that which existed in 1787.

The Government must be *strong; power* must be lodged somewhere; a *perfect* Union, not a weak Confederacy, must be formed. But, let this difficulty be surmounted, would not the questions of trade, currency, and foreign policy, excite terrible divisions? The revenue—where would it come from? Would direct taxation be borne under a system of universal suffrage, unless far more unequally apportioned than any possible tariff?

Then the question of the slave trade and foreign alliance,

especially should the protection of a foreign power be necessary to defend the commerce of the South? And if the trade of the country were thrown chiefly into European channels, would the commercial regulations of France and England consult Southern interests or their own? I will only refer to the necessity of a large and permanent military array, the most wasteful of all expenses; and, while I turn with horror from the thought of a contest with the North, would only remind them of the most embarrassing results to themselves of a war between the two great naval powers of Europe.

On the other hand, what has been the condition and position of the Southern States as partners in this Confederacy? The planting interests have flourished as they never did before under any government; the slaves have increased in number and value beyond parallel. The Southern States have imposed their policy on the Government almost without intermission; have elected nearly all our Presidents; and would have succeeded in the last election but for a division of party, which they alone are answerable for.

They carried the country into two wars, both opposed by the North, and have appropriated to their exclusive use the most valuable part of all the territories acquired beyond our original borders, except the Pacific coast. The loss of property by the flight of slaves has not been very great, and might be much diminished. The concessions proposed above, would protect all the interests connected with slavery. What remains to be complained of? The ravings of infidels and fanatics—the declamatory abuse of preachers and lecturers—whose livelihood depend on fostering popular excitement. Enthusiasm requires fuel, or it must exhaust itself; and that fuel has been unfortunately furnished by many acts of violence on the part of the South; some of which were natural, others admit of no excuse. But, I think, I may assert, with truth, that there was a time when

the Abolition Party, after the Compromise of 1850 was rapidly declining—and should we pass the present painful crisis, I verily believe, that the lesson it will teach, and the concessions and guarantees it will obtain for Southern interests—will secure us for many years, Union, Friendship, and unbounded prosperity.

PHILADELPHIA, December 8, 1860.